

109TH CONGRESS
1ST SESSION

S. 497

To revitalize our nation's rural communities by expanding broadband services.

IN THE SENATE OF THE UNITED STATES

MARCH 2, 2005

Mr. SALAZAR introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To revitalize our nation's rural communities by expanding broadband services.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Broadband Rural Revi-
5 talization Act of 2005”.

6 **SEC. 2. RURAL BROADBAND OFFICE.**

7 (a) ESTABLISHMENT.—There is established within
8 the Department of Commerce, the Rural Broadband Of-
9 fice.

1 (b) DUTIES.—The Office shall coordinate all Federal
2 Government resources as they relate to the expansion of
3 broadband technology into rural areas.

4 (c) REPORT.—Not later than 1 year after the date
5 of the enactment of this Act, and annually thereafter, the
6 Rural Broadband Office shall submit a report to the Con-
7 gress that—

8 (1) assesses the availability of, and access to,
9 broadband technology in rural areas;

10 (2) estimates the number of individuals using
11 broadband technology in rural areas;

12 (3) estimates the unmet demand for broadband
13 technology in rural areas; and

14 (4) sets forth a strategic plan to meet the de-
15 mand described in paragraph (3).

16 **SEC. 3. FULL FUNDING FOR RURAL BROADBAND SERVICES.**

17 It is the sense of Congress that the loan program es-
18 tablished in section 4 of the Rural Electrification Act of
19 1936 (7 U.S.C. 901 et seq.), which is essential to the eco-
20 nomic well-being of small telecommunications providers
21 and to the quality of life for all rural residents, be funded
22 fully.

1 **SEC. 4. EXPENSING OF BROADBAND INTERNET ACCESS EX-**
 2 **PENDITURES FOR RURAL COMMUNITIES.**

3 (a) IN GENERAL.—Part VI of subchapter B of chap-
 4 ter 1 of the Internal Revenue Code of 1986 (relating to
 5 itemized deductions for individuals and corporations) is
 6 amended by inserting after section 190 the following new
 7 section:

8 **“SEC. 191. BROADBAND EXPENDITURES FOR RURAL COM-**
 9 **MUNITIES.**

10 “(a) TREATMENT OF EXPENDITURES.—

11 “(1) IN GENERAL.—A taxpayer may elect to
 12 treat any qualified broadband expenditure which is
 13 paid or incurred by the taxpayer as an expense
 14 which is not chargeable to capital account. Any ex-
 15 penditure which is so treated shall be allowed as a
 16 deduction.

17 “(2) ELECTION.—An election under paragraph
 18 (1) shall be made at such time and in such manner
 19 as the Secretary may prescribe by regulation.

20 “(b) QUALIFIED BROADBAND EXPENDITURES.—For
 21 purposes of this section—

22 “(1) IN GENERAL.—The term ‘qualified
 23 broadband expenditure’ means, with respect to any
 24 taxable year, any direct or indirect costs incurred
 25 and properly taken into account with respect to—

1 “(A) the purchase or installation of quali-
2 fied equipment (including any upgrades there-
3 to), and

4 “(B) the connection of such qualified
5 equipment to any qualified subscriber.

6 “(2) CERTAIN SATELLITE EXPENDITURES EX-
7 CLUDED.—Such term shall not include any costs in-
8 curred with respect to the launching of any satellite
9 equipment.

10 “(3) LEASED EQUIPMENT.—Such term shall in-
11 clude so much of the purchase price paid by the les-
12 sor of qualified equipment subject to a lease de-
13 scribed in subsection (c)(2)(B) as is attributable to
14 expenditures incurred by the lessee which would oth-
15 erwise be described in paragraph (1).

16 “(c) WHEN EXPENDITURES TAKEN INTO AC-
17 COUNT.—For purposes of this section—

18 “(1) IN GENERAL.—Qualified broadband ex-
19 penditures with respect to qualified equipment shall
20 be taken into account with respect to the first tax-
21 able year in which—

22 “(A) current generation broadband services
23 are provided through such equipment to quali-
24 fied subscribers, or

1 “(B) next generation broadband services
2 are provided through such equipment to quali-
3 fied subscribers.

4 “(2) LIMITATION.—

5 “(A) IN GENERAL.—Qualified expenditures
6 shall be taken into account under paragraph (1)
7 only with respect to qualified equipment—

8 “(i) the original use of which com-
9 mences with the taxpayer, and

10 “(ii) which is placed in service, after
11 the date of the enactment of this Act.

12 “(B) SALE-LEASEBACKS.—For purposes of
13 subparagraph (A), if property—

14 “(i) is originally placed in service
15 after the date of the enactment of this Act
16 by any person, and

17 “(ii) sold and leased back by such per-
18 son within 3 months after the date such
19 property was originally placed in service,
20 such property shall be treated as originally
21 placed in service not earlier than the date
22 on which such property is used under the
23 leaseback referred to in clause (ii).

24 “(d) SPECIAL ALLOCATION RULES.—

1 “(1) CURRENT GENERATION BROADBAND SERV-
2 ICES.—For purposes of determining the amount of
3 qualified broadband expenditures under subsection
4 (a)(1) with respect to qualified equipment through
5 which current generation broadband services are
6 provided, if the qualified equipment is capable of
7 serving both qualified subscribers and other sub-
8 scribers, the qualified broadband expenditures shall
9 be multiplied by a fraction—

10 “(A) the numerator of which is the sum of
11 the number of potential qualified subscribers
12 within the rural areas which the equipment is
13 capable of serving with current generation
14 broadband services, and

15 “(B) the denominator of which is the total
16 potential subscriber population of the area
17 which the equipment is capable of serving with
18 current generation broadband services.

19 “(2) NEXT GENERATION BROADBAND SERV-
20 ICES.—For purposes of determining the amount of
21 qualified broadband expenditures under subsection
22 (a)(1) with respect to qualified equipment through
23 which next generation broadband services are pro-
24 vided, if the qualified equipment is capable of serv-
25 ing both qualified subscribers and other subscribers,

1 the qualified expenditures shall be multiplied by a
2 fraction—

3 “(A) the numerator of which is the sum
4 of—

5 “(i) the number of potential qualified
6 subscribers within the rural areas, plus

7 “(ii) the number of potential qualified
8 subscribers within the area consisting only
9 of residential subscribers not described in
10 clause (i), which the equipment is capable
11 of serving with next generation broadband
12 services, and

13 “(B) the denominator of which is the total
14 potential subscriber population of the area
15 which the equipment is capable of serving with
16 next generation broadband services.

17 “(e) DEFINITIONS.—For purposes of this section—

18 “(1) ANTENNA.—The term ‘antenna’ means
19 any device used to transmit or receive signals
20 through the electromagnetic spectrum, including sat-
21 ellite equipment.

22 “(2) CABLE OPERATOR.—The term ‘cable oper-
23 ator’ has the meaning given such term by section
24 602(5) of the Communications Act of 1934 (47
25 U.S.C. 522(5)).

1 “(3) COMMERCIAL MOBILE SERVICE CAR-
2 RIER.—The term ‘commercial mobile service carrier’
3 means any person authorized to provide commercial
4 mobile radio service as defined in section 20.3 of
5 title 47, Code of Federal Regulations.

6 “(4) CURRENT GENERATION BROADBAND SERV-
7 ICE.—The term ‘current generation broadband serv-
8 ice’ means the transmission of signals at a rate of
9 at least 1,000,000 bits per second to the subscriber
10 and at least 128,000 bits per second from the sub-
11 scriber.

12 “(5) MULTIPLEXING OR DEMULTIPLEXING.—
13 The term ‘multiplexing’ means the transmission of 2
14 or more signals over a single channel, and the term
15 ‘demultiplexing’ means the separation of 2 or more
16 signals previously combined by compatible multi-
17 plexing equipment.

18 “(6) NEXT GENERATION BROADBAND SERV-
19 ICE.—The term ‘next generation broadband service’
20 means the transmission of signals at a rate of at
21 least 22,000,000 bits per second to the subscriber
22 and at least 5,000,000 bits per second from the sub-
23 scriber.

24 “(7) NONRESIDENTIAL SUBSCRIBER.—The
25 term ‘nonresidential subscriber’ means any person

1 who purchases broadband services which are deliv-
2 ered to the permanent place of business of such per-
3 son.

4 “(8) OPEN VIDEO SYSTEM OPERATOR.—The
5 term ‘open video system operator’ means any person
6 authorized to provide service under section 653 of
7 the Communications Act of 1934 (47 U.S.C. 573).

8 “(9) OTHER WIRELESS CARRIER.—The term
9 ‘other wireless carrier’ means any person (other than
10 a telecommunications carrier, commercial mobile
11 service carrier, cable operator, open video system op-
12 erator, or satellite carrier) providing current genera-
13 tion broadband services or next generation
14 broadband service to subscribers through the radio
15 transmission of energy.

16 “(10) PACKET SWITCHING.—The term ‘packet
17 switching’ means controlling or routing the path of
18 any digitized transmission signal which is assembled
19 into packets or cells.

20 “(11) PROVIDER.—The term ‘provider’ means,
21 with respect to any qualified equipment—

22 “(A) a cable operator,

23 “(B) a commercial mobile service carrier,

24 “(C) an open video system operator,

25 “(D) a satellite carrier,

1 “(E) a telecommunications carrier,

2 “(F) any other wireless carrier, providing
3 current generation broadband services or next
4 generation broadband services to subscribers
5 through such qualified equipment; or

6 “(G) any carrier or operator using any
7 other technology.

8 “(12) PROVISION OF SERVICES.—A provider
9 shall be treated as providing services to 1 or more
10 subscribers if—

11 “(A) such a subscriber has been passed by
12 the provider’s equipment and can be connected
13 to such equipment for a standard connection
14 fee,

15 “(B) the provider is physically able to de-
16 liver current generation broadband services or
17 next generation broadband services, as applica-
18 ble, to such a subscriber without making more
19 than an insignificant investment with respect to
20 such subscriber,

21 “(C) the provider has made reasonable ef-
22 forts to make such subscribers aware of the
23 availability of such services,

24 “(D) such services have been purchased by
25 1 or more such subscribers, and

1 “(E) such services are made available to
2 such subscribers at average prices comparable
3 to those at which the provider makes available
4 similar services in any areas in which the pro-
5 vider makes available such services.

6 “(13) QUALIFIED EQUIPMENT.—

7 “(A) IN GENERAL.—The term ‘qualified
8 equipment’ means equipment which provides
9 current generation broadband services or next
10 generation broadband services—

11 “(i) at least a majority of the time
12 during periods of maximum demand to
13 each subscriber who is utilizing such serv-
14 ices, and

15 “(ii) in a manner substantially the
16 same as such services are provided by the
17 provider to subscribers through equipment
18 with respect to which no deduction is al-
19 lowed under subsection (a)(1).

20 “(B) ONLY CERTAIN INVESTMENT TAKEN
21 INTO ACCOUNT.—Except as provided in sub-
22 paragraph (C) or (D), equipment shall be taken
23 into account under subparagraph (A) only to
24 the extent it—

1 “(i) extends from the last point of
2 switching to the outside of the unit, build-
3 ing, dwelling, or office owned or leased by
4 a subscriber in the case of a telecommuni-
5 cations carrier,

6 “(ii) extends from the customer side
7 of the mobile telephone switching office to
8 a transmission/receive antenna (including
9 such antenna) owned or leased by a sub-
10 scriptioner in the case of a commercial mobile
11 service carrier,

12 “(iii) extends from the customer side
13 of the headend to the outside of the unit,
14 building, dwelling, or office owned or
15 leased by a subscriber in the case of a
16 cable operator or open video system oper-
17 ator, or

18 “(iv) extends from a transmission/re-
19 ceive antenna (including such antenna)
20 which transmits and receives signals to or
21 from multiple subscribers, to a trans-
22 mission/receive antenna (including such
23 antenna) on the outside of the unit, build-
24 ing, dwelling, or office owned or leased by
25 a subscriber in the case of a satellite car-

1 rier or other wireless carrier, unless such
2 other wireless carrier is also a tele-
3 communications carrier.

4 “(C) PACKET SWITCHING EQUIPMENT.—
5 Packet switching equipment, regardless of loca-
6 tion, shall be taken into account under subpara-
7 graph (A) only if it is deployed in connection
8 with equipment described in subparagraph (B)
9 and is uniquely designed to perform the func-
10 tion of packet switching for current generation
11 broadband services or next generation
12 broadband services, but only if such packet
13 switching is the last in a series of such func-
14 tions performed in the transmission of a signal
15 to a subscriber or the first in a series of such
16 functions performed in the transmission of a
17 signal from a subscriber.

18 “(D) MULTIPLEXING AND
19 DEMULTIPLEXING EQUIPMENT.—Multiplexing
20 and demultiplexing equipment shall be taken
21 into account under subparagraph (A) only to
22 the extent it is deployed in connection with
23 equipment described in subparagraph (B) and
24 is uniquely designed to perform the function of
25 multiplexing and demultiplexing packets or cells

1 of data and making associated application
2 adaptations, but only if such multiplexing or
3 demultiplexing equipment is located between
4 packet switching equipment described in sub-
5 paragraph (C) and the subscriber's premises.

6 “(14) QUALIFIED SUBSCRIBER.—The term
7 ‘qualified subscriber’ means—

8 “(A) with respect to the provision of cur-
9 rent generation broadband services—

10 “(i) any nonresidential subscriber
11 maintaining a permanent place of business
12 in a rural area, or

13 “(ii) any residential subscriber resid-
14 ing in a dwelling located in a rural area
15 which is not a saturated market, and

16 “(B) with respect to the provision of next
17 generation broadband services—

18 “(i) any nonresidential subscriber
19 maintaining a permanent place of business
20 in a rural area, or

21 “(ii) any residential subscriber.

22 “(15) RESIDENTIAL SUBSCRIBER.—The term
23 ‘residential subscriber’ means any individual who
24 purchases broadband services which are delivered to
25 such individual's dwelling.

1 “(16) RURAL AREA.—The term ‘rural area’
2 means any census tract which—

3 “(A) is not within 5 miles of any incor-
4 porated or census designated place containing
5 more than 25,000 people, and

6 “(B) is not within a county or county
7 equivalent which has an overall population den-
8 sity of more than 500 people per square mile of
9 land.

10 “(17) RURAL SUBSCRIBER.—The term ‘rural
11 subscriber’ means any residential subscriber residing
12 in a dwelling located in a rural area or nonresiden-
13 tial subscriber maintaining a permanent place of
14 business located in a rural area.

15 “(18) SATELLITE CARRIER.—The term ‘sat-
16 ellite carrier’ means any person using the facilities
17 of a satellite or satellite service licensed by the Fed-
18 eral Communications Commission and operating in
19 the Fixed-Satellite Service under part 25 of title 47
20 of the Code of Federal Regulations or the Direct
21 Broadcast Satellite Service under part 100 of title
22 47 of such Code to establish and operate a channel
23 of communications for distribution of signals, and
24 owning or leasing a capacity or service on a satellite

1 in order to provide such point-to-multipoint distribu-
2 tion.

3 “(19) SATURATED MARKET.—The term ‘satu-
4 rated market’ means any census tract in which, as
5 of the date of the enactment of this section—

6 “(A) current generation broadband services
7 have been provided by a single provider to 85
8 percent or more of the total number of potential
9 residential subscribers residing in dwellings lo-
10 cated within such census tract, and

11 “(B) such services can be utilized—

12 “(i) at least a majority of the time
13 during periods of maximum demand by
14 each such subscriber who is utilizing such
15 services, and

16 “(ii) in a manner substantially the
17 same as such services are provided by the
18 provider to subscribers through equipment
19 with respect to which no deduction is al-
20 lowed under subsection (a)(1).

21 “(20) SUBSCRIBER.—The term ‘subscriber’
22 means any person who purchases current generation
23 broadband services or next generation broadband
24 services.

1 “(21) TELECOMMUNICATIONS CARRIER.—The
2 term ‘telecommunications carrier’ has the meaning
3 given such term by section 3(44) of the Communica-
4 tions Act of 1934 (47 U.S.C. 153(44)), but—

5 “(A) includes all members of an affiliated
6 group of which a telecommunications carrier is
7 a member, and

8 “(B) does not include a commercial mobile
9 service carrier.

10 “(22) TOTAL POTENTIAL SUBSCRIBER POPU-
11 LATION.—The term ‘total potential subscriber popu-
12 lation’ means, with respect to any area and based on
13 the most recent census data, the total number of po-
14 tential residential subscribers residing in dwellings
15 located in such area and potential nonresidential
16 subscribers maintaining permanent places of busi-
17 ness located in such area.

18 “(f) SPECIAL RULES.—

19 “(1) PROPERTY USED OUTSIDE THE UNITED
20 STATES, ETC., NOT QUALIFIED.—No expenditures
21 shall be taken into account under subsection (a)(1)
22 with respect to the portion of the cost of any prop-
23 erty referred to in section 50(b) or with respect to
24 the portion of the cost of any property specified in
25 an election under section 179.

1 “(2) BASIS REDUCTION.—

2 “(A) IN GENERAL.—For purposes of this
3 title, the basis of any property shall be reduced
4 by the portion of the cost of such property
5 taken into account under subsection (a)(1).

6 “(B) ORDINARY INCOME RECAPTURE.—
7 For purposes of section 1245, the amount of
8 the deduction allowable under subsection (a)(1)
9 with respect to any property which is of a char-
10 acter subject to the allowance for depreciation
11 shall be treated as a deduction allowed for de-
12 preciation under section 167.

13 “(3) COORDINATION WITH SECTION 38.—No
14 credit shall be allowed under section 38 with respect
15 to any amount for which a deduction is allowed
16 under subsection (a)(1).”.

17 (b) SPECIAL RULE FOR MUTUAL OR COOPERATIVE
18 TELEPHONE COMPANIES.—Section 512(b) (relating to
19 modifications) is amended by adding at the end the fol-
20 lowing new paragraph:

21 “(18) SPECIAL RULE FOR MUTUAL OR COOPER-
22 ATIVE TELEPHONE COMPANIES.—A mutual or coop-
23 erative telephone company which for the taxable year
24 satisfies the requirements of section 501(c)(12)(A)
25 may elect to reduce its unrelated business taxable in-

1 come for such year, if any, by an amount that does
2 not exceed the qualified broadband expenditures
3 which would be taken into account under section
4 191 for such year by such company if such company
5 was not exempt from taxation. Any amount which is
6 allowed as a deduction under this paragraph shall
7 not be allowed as a deduction under section 191 and
8 the basis of any property to which this paragraph
9 applies shall be reduced under section
10 1016(a)(32).”.

11 (c) CONFORMING AMENDMENTS.—

12 (1) Section 263(a)(1) of the Internal Revenue
13 Code of 1986 (relating to capital expenditures) is
14 amended by striking “or” at the end of subpara-
15 graph (H), by striking the period at the end of sub-
16 paragraph (I) and inserting “, or”, and by adding
17 at the end the following new subparagraph:

18 “(J) expenditures for which a deduction is
19 allowed under section 191.”.

20 (2) Section 1016(a) of such Code is amended
21 by striking “and” at the end of paragraph (30), by
22 striking the period at the end of paragraph (31) and
23 inserting “, and”, and by adding at the end the fol-
24 lowing new paragraph:

1 “(32) to the extent provided in section
2 191(f)(2).”.

3 (3) The table of sections for part VI of sub-
4 chapter A of chapter 1 of such Code is amended by
5 inserting after the item relating to section 190 the
6 following new item:

“Sec. 191. Broadband expenditures for rural communities.”.

7 (d) DESIGNATION OF CENSUS TRACTS.—

8 (1) IN GENERAL.—The Secretary of the Treas-
9 ury shall, not later than 90 days after the date of
10 the enactment of this Act, designate and publish
11 those census tracts meeting the criteria described in
12 paragraphs (16) and (22) of section 191(e) of the
13 Internal Revenue Code of 1986 (as added by this
14 section). In making such designations, the Secretary
15 of the Treasury shall consult with such other depart-
16 ments and agencies as the Secretary determines ap-
17 propriate.

18 (2) SATURATED MARKET.—

19 (A) IN GENERAL.—For purposes of desig-
20 nating and publishing those census tracts meet-
21 ing the criteria described in subsection (e)(19)
22 of such section 191—

23 (i) the Secretary of the Treasury shall
24 prescribe not later than 30 days after the
25 date of the enactment of this Act the form

1 upon which any provider which takes the
2 position that it meets such criteria with re-
3 spect to any census tract shall submit a
4 list of such census tracts (and any other
5 information required by the Secretary) not
6 later than 60 days after the date of the
7 publication of such form, and

8 (ii) the Secretary of the Treasury
9 shall publish an aggregate list of such cen-
10 sus tracts and the applicable providers not
11 later than 30 days after the last date such
12 submissions are allowed under clause (i).

13 (B) NO SUBSEQUENT LISTS REQUIRED.—

14 The Secretary of the Treasury shall not be re-
15 quired to publish any list of census tracts meet-
16 ing such criteria subsequent to the list de-
17 scribed in subparagraph (A)(ii).

18 (e) OTHER REGULATORY MATTERS.—

19 (1) PROHIBITION.—No Federal or State agency
20 or instrumentality shall adopt regulations or rate-
21 making procedures that would have the effect of
22 eliminating or reducing any deduction or portion
23 thereof allowed under section 191 of the Internal
24 Revenue Code of 1986 (as added by this section) or
25 otherwise subverting the purpose of this section.

1 (2) TREASURY REGULATORY AUTHORITY.—It is
2 the intent of Congress in providing the election to
3 deduct qualified broadband expenditures under sec-
4 tion 191 of the Internal Revenue Code of 1986 (as
5 added by this section) to provide incentives for the
6 purchase, installation, and connection of equipment
7 and facilities offering expanded broadband access to
8 the Internet for users in certain rural areas of the
9 United States, as well as to residential users nation-
10 wide, in a manner that maintains competitive neu-
11 trality among the various classes of providers of
12 broadband services. Accordingly, the Secretary of
13 the Treasury shall prescribe such regulations as may
14 be necessary or appropriate to carry out the pur-
15 poses of section 191 of such Code, including—

16 (A) regulations to determine how and when
17 a taxpayer that incurs qualified broadband ex-
18 penditures satisfies the requirements of section
19 191 of such Code to provide broadband serv-
20 ices, and

21 (B) regulations describing the information,
22 records, and data taxpayers are required to pro-
23 vide the Secretary to substantiate compliance
24 with the requirements of section 191 of such
25 Code.

1 (f) NO IMPLICATION REGARDING THE NEED FOR
2 NEXT GENERATION INCENTIVE IN URBAN AREAS.—
3 Nothing in this section shall be construed to imply that
4 an incentive for next generation broadband is not needed
5 in urban areas.

6 (g) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to expenditures incurred after the
8 date of the enactment of this Act and before the date
9 which is 12 months after the date of the enactment of
10 this Act.

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